

PATENT
Atty. Dkt. No. ROC920010125US1
MPS Ref. No.: IBMK10125

REMARKS

This is intended as a full and complete response to the Office Action dated January 12, 2005, having a shortened statutory period for response set to expire on April 12, 2005. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-47 are pending in the application. Claims 1-47 remain pending following entry of this response. Claims 1-4, 6-10, 12-13, 16, 22-26, 30-31, 33 and 39 have been amended.

Claims 13, 24, and 31 are objected to because of informalities. In view of the amendments to claims 13, 24 and 31, Applicants submits that these objections have been obviated and respectfully request withdrawal of these objections.

Claim Rejections - 35 U.S.C. § 102

Claims 1-7, 9-37 and 39-47 are rejected under 35 U.S.C. 102(e) as being anticipated by *Finseth et al.* (U.S. 6,813,775 B1, hereinafter *Finseth*). Applicants respectfully traverse this rejection in view of the amended claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this case, *Finseth* does not disclose "each and every element as set forth in the claim". Specifically, *Finseth* does not teach, show or suggest that the viewership data comprises a plurality of counts corresponding to a plurality of time intervals for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval. Furthermore, *Finseth* does not teach, show or suggest that the on-screen interface information is viewable in one or more graphical representations of the plurality of counts displayed along with each respective program entry displayed by the electronic program guide.

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Therefore, Applicants submit that claims 1-7, 9-37 and 39-47 are patentable over *Finseth*. Withdrawal of the rejection is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

Claims 8, 38 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Finseth* in view of *Sitnik* (US 20020010935 A1). Applicants respectfully traverse this rejection in view of the amended claims.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP § 2143. The present rejection fails to establish at least the third criteria.

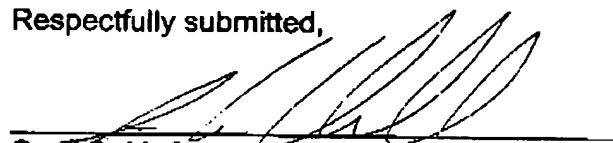
As discussed above, *Finseth* does not disclose each and every element as set forth in the claims. *Sitnik* discloses a method and apparatus for providing peer-to-peer communication between televisions in which one television can query another television to identify the currently watched content. The references cited by the Examiner, either alone or in combination, do not teach, show or suggest that the viewership data comprises a plurality of counts corresponding to a plurality of time intervals for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval. Furthermore, the references cited by the Examiner, either alone or in combination, do not teach, show or suggest that the on-screen interface information is viewable in one or more graphical representations of the plurality of counts displayed along with each respective program entry displayed by the electronic program guide. Therefore, Applicants submit that claims 8, 38 and 45 are patentable over *Finseth* in view of *Sitnik*. Withdrawal of the rejection is respectfully requested.

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Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,


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